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February 22, 2021

**VIA ECF**

United States District Court  
Eastern District of New York  
Attn: Brian M. Cogan, U.S.D.J.  
225 Cadman Plaza East  
Courtroom 8D South  
Brooklyn, NY 11201-1804

Re: Salamanca, *et al.* v. Sweet Coffee Bakery, Inc., *et al.*  
Case No.: 1:20-cv-6223 (BMC)  
Supplemental Letter regarding Defenses

Dear Judge Cogan:

This office represents the Defendants in the above-referenced case. Defendants write pursuant to this Court's February 7, 2021 Order requiring the submission of a supplemental letter describing the factual and legal bases for their defenses in detail. Based on a review of the file thus far, Defendants submit that: **(i)** Plaintiffs were properly paid or otherwise were paid more than what they allege they were paid in the complaint; **(ii)** Plaintiffs did not work the number of hours they claim worked in the complaint and their hours varied from week to week based on their time records; **(iii)** Plaintiffs did not work for each and every single defendant named; specifically, Plaintiffs have not otherwise adequately pled that Defendants are joint employers or constitute single employers, and notwithstanding, each corporate Defendant is or was run by a different manager with different policies;<sup>1</sup> **(iv)** Defendants acted in good faith because they reasonably believed its conduct did not violate the FLSA as they paid Plaintiff Salamanca for her regular work as an employee and for her remaining work as a manager separately (29 U.S.C. § 260); **(v)** the individual defendants are not employers under the law; and **(vi)** based on an investigation conducted by Defendants following the commencement of this case, Plaintiff Salamanca was a faithless servant under the law for stealing money and goods from Defendants and must therefore be disgorged of all wages from the first date of her disloyalty (see Calderon v. Mullarkey Realty, LLC, No. 14-CIV.-2616 (PKC) (RLM), 2018 WL 2871834 (E.D.N.Y. Jun. 10, 2018)).

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<sup>1</sup> Plaintiff Gutierrez worked exclusively at Sweet Coffee Bakery, Inc. and never worked at any of the other corporate Defendants, while Plaintiff Salamanca worked exclusively at Sweet Coffee Bakery, Inc., except for two (2) months when she worked exclusively for Defendant Pariscien Bakery #2, Corp. and for one or two (1-2) days of training at Pariscien Bakery, Corp., and Plaintiff Guadarrama worked exclusively at Pariscien Bakery #2, Corp. for one (1) year, and thereafter worked exclusively at Sweet Coffee Bakery, Inc.

Defendants respectfully reserve the right to raise any additional defenses that come to light by conducting further discovery, and thank this Court for its time and attention to this case.

Dated: Forest Hills, New York  
February 22, 2021

Respectfully submitted,

**SHALOM LAW, PLLC**

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